

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION**

ANN WYSONG,

PLAINTIFF,

V.

STRIPE, LLC AND SUNOCO, LP,

DEFENDANTS.

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CIVIL ACTION NO. 6:19-cv-0009

DEFENDANTS' NOTICE OF REMOVAL

Defendants Stripes LLC and Sunoco LP (collectively "Stripes") file this Notice of Removal of Cause No. 19C001-L2, filed by Plaintiff Ann Wysong ("Plaintiff") in the County Court at Law Number 2 of Tom Green County, Texas, based upon this Court's federal question jurisdiction. In support of removal, Defendants respectfully show the Court as follows:

I.
BACKGROUND

1. On December 31, 2018, Plaintiff filed her Original Petition in the County Court at Law Number 2 of Tom Green County, Texas, Cause No. 19C001-L2 (the "State Court Action"). *See* Exhibit C-1.¹ In her Petition, Plaintiff alleged a claim for violation of the Family Medical Leave Act ("FMLA"), 29 U.S.C. §§ 2601, *et seq.* *See* Exhibit C-1. Therefore, this case is removable pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446(a).

¹ In accordance with LR81.1, an index of all matters being filed is attached hereto as Exhibit A. The state court docket sheet is attached hereto as Exhibit B. True and correct copies of all process, pleadings, and orders served on or by Defendants in the State Court Action are attached hereto as Exhibit C. A separately signed certificate of interested persons that complies with LR 3.1(c) is attached hereto as Exhibit D.

2. Defendants have timely filed this Notice of Removal. Defendants have 30 days to file a notice of removal after receipt of a copy of the initial pleading setting forth the claim upon which such action or proceeding is based. *See* 28 U.S.C. § 1446(b)(1). Defendants were served with a copy of Plaintiff's Original Petition on January 18, 2019. Therefore, the deadline for filing a notice of removal is Tuesday, February 19, 2019, and this Notice of Removal is timely.²

II.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over Plaintiff's federal law claim. The United States Federal District Courts have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 1331. As noted above, Plaintiff's Original Petition asserts a civil claim arising under the laws of the United States, specifically the FMLA. Thus, this case falls within the original federal question jurisdiction of this Court pursuant to 28 U.S.C. § 1331.

4. Venue is proper in the United States District Court for the Northern District of Texas, San Angelo Division, under 28 U.S.C. §§ 1391(b) and 124(a)(4) because the San Angelo Division includes Tom Green County, where the State Action is pending.

5. As required by 28 U.S.C. § 1446(d), a Notice to State Court of Filing of Notice of Removal, along with a copy of this Notice of Removal, will be promptly filed with the clerk of the County Court at Law Number 2 of Tom Green County, Texas and served on Plaintiff. A copy of the Notice to State Court of Filing of Notice of Removal is attached hereto as Exhibit E.

² The 30-day deadline actually falls on Sunday, February 17, 2019. However, because Monday, February 18, 2019 is a federal holiday (President's Day), the deadline is Tuesday, February 19, 2019. *See* FED. R. CIV. P. 6(a)(1).

III.
CONCLUSION

WHEREFORE, Defendants Stripes LLC and Sunoco LP respectfully request the removal of this action from the County Court at Law Number 2 of Tom Green County, Texas to this Court.

Dated: February 15, 2019

Respectfully submitted,

Of Counsel:

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**ATTORNEYS FOR DEFENDANTS
STRIPES LLC AND SUNOCO LP**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of February 2019, a true and correct copy of the foregoing was served and filed using the Court's ECF system and certified mail, return receipt requested upon the following counsel of record:

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/s/ Kelley Edwards
Kelley Edwards

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